

November 16, 1995, respectively. Petitioners argue that additional time is needed to review a study being prepared by the National Association of Broadcasters relevant to the issues raised by the Commission in the *Notice*.

3. As set forth in Section 1.46 of the Commission's Rules, 47 CFR 1.46, it is our policy that extensions of time for filing comments in rulemaking proceedings shall not be routinely granted. Moreover, a 90-day extension of time has already been granted in this proceeding. However, in view of the circumstances outlined by Petitioners, we believe that an additional 30-day extension of time to file comments and reply comments is warranted in order to facilitate the development of a full and complete record.

4. Accordingly, it is ordered that the Request for Extension of Time filed in MM Docket No. 93-48 by the National Broadcasting Company, Inc., CBS Inc., and Capital Cities/ABC, Inc. is Granted.

5. It is further ordered that the time for filing comments in this proceeding is extended to October 16, 1995, and the time for filing reply comments is extended to November 15, 1995.

6. This action is taken pursuant to authority found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r), and Sections 0.204(b), 0.283 and 1.45 of the Commission's Rules, 47 CFR 0.204(b), 0.283 and 1.45.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

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47 CFR Part 90

[PR Docket No. 89-552, GN Docket No. 93-252, PP Docket No. 93-253; FCC 95-312]

Wireless Services; Private Land Mobile Radio

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission adopts a *Second Memorandum Opinion and Order and Third Notice of Proposed Rulemaking*, which proposes a new framework for the operation and licensing of the 220-222 MHz band (220 MHz service). (The summary of the *Second Memorandum Opinion and Order* portion of this decision may be found elsewhere in this edition of the **Federal Register**.) This action is taken as part of the Commission's continuing implementation of the new regulatory

framework for mobile radio services enacted by Congress in Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993. The primary goal of this proceeding is to establish a flexible regulatory framework that will allow for more efficient licensing of the 220-222 MHz band, eliminate unnecessary regulatory burdens on both existing and future licensees, and enhance the competitive potential of the 220 MHz service in the mobile services marketplace.

DATES: Comments are due on or before September 27, 1995, and reply comments are due on or before October 12, 1995.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Martin Liebman, Wireless Telecommunications Bureau (202) 418-1310, or Rhonda Lien, Wireless Telecommunications Bureau (202) 418-0620.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Third Notice of Proposed Rule Making* (Third NPRM) portion of the Commission's *Third Notice of Proposed Rulemaking and Second Memorandum Opinion and Order* in PR Docket No. 89-552, GN Docket No. 93-252, PP Docket No. 93-253; FCC 95-312, adopted July 28, 1995, and released August 28, 1995. The complete text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Synopsis of Third Notice of Proposed Rulemaking Portion of Second Memorandum Opinion and Order and Third Notice of Proposed Rulemaking

1. The Commission, in this *Third NPRM*, proposes a new framework for the operation and licensing of the 220-222 MHz band (220 MHz service).¹ This action is taken as part of our continuing implementation of the new regulatory framework for mobile radio services enacted by Congress in Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993 (Budget Act), which amended Sections 3(n) and 332 of the

¹ The Commission will refer herein to any licenses granted to this new framework as Phase II licenses. Licenses granted under the current rules are referred to herein as Phase I licenses.

Communications Act of 1934.² The Commission began the implementation of the provisions of the Budget Act with the adoption of a Notice of Proposed Rule Making in GN Docket 93-252 (58 FR 53169, October 14, 1993). In that proceeding, the Commission adopted rules governing the commercial and private mobile radio services, including the 220 MHz service, consistent with the policy of regulatory parity as reflected in the Congressional revisions to Section 332 of the Act. The proceeding the Commission is initiating with this *Third NPRM* is an outgrowth of the CMRS *Third Report and Order* (59 FR 59945, November 21, 1994), which deferred a comprehensive examination of the 220 MHz service to a separate rulemaking proceeding.

2. The Commission's primary goal in this proceeding is to establish a flexible regulatory framework that will allow for more efficient licensing of the 220-222 MHz band, eliminate unnecessary regulatory burdens on both existing and future licensees, and enhance the competitive potential of the 220 MHz service in the mobile services marketplace. In addition, the Commission seeks to ensure that licenses are granted to those who value the spectrum most highly and will maximize its use to provide the best quality and variety of service to consumers. The Commission believes its proposals strike a fair balance between the interests of current licensees and licensees to be authorized under the new rules. The adoption of the rules set forth in this *Third NPRM* will enable the continued development of the 220 MHz radio service and the implementation of a variety of new communications services to meet the future needs of the American public.

Proposals Contained in the Third NPRM

3. The *Third NPRM* invites comment on a number of issues relevant to operation and licensing of the 220 MHz service. In the category of nationwide licensing, the Commission seeks comment on whether to resolve pending mutually exclusive, non-commercial, nationwide applications by lottery, comparative hearing, or to return the applications and adopt a new licensing scheme for the 30 channels associated with the applications. If the Commission returns the applications, it makes the following proposals for Phase II nationwide licensing of these channels: (1) To license the 30 channels

² Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, Title VI § 6002(b)(2)(A), 6002(b)(2)(B), 107 Stat. 312, 392 (1993).

on a nationwide basis to all applicants—*i.e.*, applicants that intend to use the channels to offer commercial services as well as applicants that intend to use the channels for their private internal use; and (2) To assign these channels, in the form of three 10-channel authorizations, through competitive bidding pursuant to our tentative conclusion that the principal use of the spectrum will be for the provision of for-profit, subscriber-based services.

4. Also, the *Third NPRM* makes the following proposals for Phase II, non-nationwide licensing of the 220 MHz band. It first proposes to assign 60 channels in the 172 geographic areas defined as Economic Areas by the Bureau of Economic Analysis, Department of Commerce (“EA licenses”) and 65 channels in the geographic areas defined by five “220 MHz Regions” (“Regional licenses”) in the following manner:

Non-Nationwide 220 MHz, Proposed Channel Allocation Plan

EA Block	Channels
Channels 61–70	10
Channels 71–80	10
Channels 91–100	10
Channels 101–110	10
Channels 121–125	5
Channels 126–130	5
Channels 131–135	5
Channels 136–140	5
Total	60
Regional Block	
Channels 171–180	10
Channels 186–200	15
Channels 1–10	10
Channels 11–20	10
Channels 31–50	20
Total	65

5. The *Third NPRM* also proposes: (1) To allow all applicants to apply for these channels—*i.e.*, applicants that intend to use the channels for private, internal use as well as applicants that intend to use the channels to offer commercial services; (2) To assign these channels through competitive bidding based on our tentative conclusion that the principal use of the spectrum will be for the provision of for-profit, subscriber-based services; (3) To permit EA and Regional licensees to operate stations anywhere within their geographic borders, provided that their transmissions do not exceed a predicted field strength of 38 dBuV/m at their border and they protect Phase I licensees in accordance with existing co-channel separation criteria; (4) To provide a 10-year license term for EA and Regional licensees and require EA and Regional licensees to meet five and ten-year construction benchmarks; (5) To eliminate existing channel use

restrictions, *i.e.*, the “data-only” and “non-trunked” channel designations; (6) To continue to assign, on a single-station basis, 10 channels exclusively to applicants eligible in the Public Safety Radio Service (the “Public Safety Pool”) and five channels exclusively to applicants eligible in the Emergency Medical Radio Service (the “EMRS Pool”); and (7) To continue to assign channels in the Public Safety and EMRS Pools on a first-come, first-served basis and resolve mutually exclusive applications by random selection procedures.

6. The *Third NPRM* next considers technical and operational matters and proposes modifications to the Commission’s existing rules with regard to fixed operations, paging operations, and the use of 5 kHz-wide channels. Specifically, the Commission proposes to allow fixed and paging operations for all 220 MHz licensees without the requirement that such use be on an ancillary basis to land mobile operations, and to allow licensees, under certain conditions, to aggregate any and all of their authorized channels to operate on channels wider than 5 kHz.

7. The *Third NPRM* also proposes to adopt definitions for initial applications, amended applications, and applications to modify authorizations in the following manner: (1) To define initial applications for 220 MHz licenses as applications for the nationwide, EA, and Regional licenses to be assigned in Phase II; (2) To adopt the same procedures for amending applications and modifying authorizations for Phase II 220 MHz licenses that are established for other Part 90 CMRS services; (3) To require non-grandfathered CMRS 220 MHz licensees to obtain STAs under the same restrictions applicable to other non-grandfathered Part 90 CMRS licensees; and (4) To extend to all 220 MHz licensees the Part 22 renewal standards adopted in the CMRS *Third Report and Order* for part 90 CMRS services.

8. The *Third NPRM* also addresses a Petition for Rulemaking filed by Fairfield Industries, Inc. (Fairfield), and adopts proposals similar to those requested by Fairfield for secondary, fixed operation in the 220–222 MHz band.

9. Finally, the *Third NPRM* proposes competitive bidding procedures to resolve mutually exclusive initial applications filed in Phase II.

Administrative Matters

10. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission’s Rules, 47 CFR 1.415

and 1.419, interested parties may file comments on or before September 27, 1995, and reply comments on or before October 12, 1995. To file formally in this proceeding, you must file an original plus four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC 20554.

11. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission Rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

Initial Regulatory Flexibility Act Statement

I. Reason for Action

The action is taken to propose a new framework for the licensing and operation of the 220 MHz service, and as part of the Commission’s continuing implementation of Congress revisions to Sections 3(n) and 332 of the Communications Act in the Omnibus Budget Reconciliation Act of 1993.

II. Objectives of this Action

The Commission’s primary goal is to establish a flexible regulatory scheme that will allow for more efficient licensing, eliminate unnecessary regulatory burdens on both existing and future licensees, and enhance the competitive potential 220 MHz services in the mobile marketplace.

III. Legal Basis

The proposed action is authorized under Sections 4(i), 303(r), 309(j) and 332 of the Communications Act of 1934, as amended.

IV. Description, Potential Impact and Number of Small Entities Affected

There are approximately 3,800 non-nationwide licensees in the 220 MHz band. The potential impact of the proposals contained in this Notice on small business is hard to predict without the benefit of comment, and the actual impact will depend on the final action taken. The intention of this action is to provide licensees with more flexibility, with a minimum increased

burden. Thus, the Commission, in drafting these proposals tried to balance the needs of all licensees and potential licensees. For example, to afford licensees increased flexibility to meet consumer demand and to increase their ability to compete with other CMRS licensees, the Commission has proposed that 220 MHz licensees be permitted to operate paging and fixed systems on a primary basis and to aggregate their 5 kHz channels to operate on channels of wider bandwidth.

V. Reporting, Recordkeeping and Other Compliance Requirements

The Commission is proposing to generally decrease the burden on licensees. For example, rather than being required to obtain separate authorization for each of their base stations, non-nationwide, Phase II licensees will be permitted to operate over Commission-defined geographic areas (EAs and 220 MHz Regions) and will be allowed to construct and operate base stations anywhere within their authorized area as long as signals from those stations do not exceed a prescribed level. On the other hand, Phase II licensees who desire to operate less than 120 kilometers from Phase I co-channel stations will be required to submit a technical analysis demonstrating at least 10 dB protection to the 38 dBuV/m contour of such licensees, and all Phase II licensees will be required to submit maps and other supporting documents to demonstrate compliance with interim and final construction benchmarks.

VI. Federal Rules which Overlap, Duplicate, or Conflict with these Proposals

None.

VII. Significant Alternatives

The Commission believes that the proposals contained in this decision represent the best balance of providing licensees with the most flexibility and the least regulatory burden possible, while ensuring that license are granted to those who value the spectrum most high and will maximize its use to provide the best quality and variety of service to consumers.

12. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of this Further Notice, but they

must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of this Further Notice of Proposed Rule Making, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq.* (1981).

13. Authority for issuance of this *Second Memorandum Opinion and Order* and *Third Notice of Proposed Rulemaking* is contained in Sections 4(i), 303(r), 309(j), and 332 of the Communications Act of 1934, as amended; 47 U.S.C. 154(i), 303(r), 309(j), and 332.

Ordering Clause

14. Accordingly, IT IS ORDERED that the Petition for Rulemaking in RM-8506 filed by Fairfield Industries, Inc. IS GRANTED to the extent indicated herein.

List of Subjects in 47 CFR Part 90

Business and industry, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-22296 Filed 9-6-95; 8:45 am]

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47 CFR Part 90

[PR Docket No. 89-552, GN Docket No. 93-252; FCC 95-381]

Wireless Services; Private Land Mobile Radio Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission adopts a *Fourth Notice of Proposed Rulemaking* in this proceeding, seeking comment on proposed rules that will allow existing, *i.e.*, Phase I licensees in the 220 MHz service to seek minor modifications of their licenses to construct and operate base stations at currently unauthorized locations. This action is taken to enable Phase I 220 MHz licensees to provide service within the geographic area they could serve pursuant to their initial applications, while accommodating those licensees that need to relocate their base stations for technical or other reasons.

DATES: Comments are due on or before September 13, 1995, and reply comments are due on or before September 18, 1995.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Martin Liebman, Wireless Telecommunications Bureau (202) 418-1310.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Fourth Notice of Proposed Rule Making* in PR Docket No. 89-552, and GN Docket No. 93-252, FCC 95-381, adopted August 28, 1995, and released August 29, 1995. The complete text of this *Fourth Notice of Proposed Rule Making* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington DC 20037.

Synopsis of Notice of Proposed Rule Making

1. In this *Fourth Notice of Proposed Rulemaking (220 MHz Fourth Notice)*, the Commission seeks comment on proposed rules that will allow existing, *i.e.*, Phase I licensees in the 220 MHz service to seek minor modifications of their licenses to construct and operate base stations at currently unauthorized locations. The Commission proposes to define a minor modification for the 220 MHz service as any change in an existing licensee's authorized base station location such that, at the new station location, transmissions do not exceed a predicted field strength of 38 dBuV/m at the edge of the licensee's existing service area, and the Commission proposes to define the edge of a licensee's existing service area as the predicted 38 dBuV/m field strength contour resulting from transmissions from the licensee's currently authorized base station. The Commission's goal in proposing this licensing procedure is to enable Phase I 220 MHz licensees to provide service within the geographic area they could serve pursuant to their initial applications, while accommodating those licensees that need to relocate their base stations for technical or other reasons.

2. The Commission believes that most licensees will be able to locate alternative sites relatively close to their authorized site so that they will not be required to reduce their power or antenna height significantly. However, to enable 220 MHz licensees who desire to move greater distances from their authorized site to serve as much of their original area as possible, the Commission proposes to allow all licensees modifying their authorizations